

September 28, 2017

SUPPLEMENTAL AGREEMENT

DATED OCTOBER 9, 2017

BETWEEN

CITY OF SALINA, KANSAS

AND

SALINA 2020, INC.

RELATING TO THE

DEVELOPMENT AGREEMENT FOR THE

SALINA DOWNTOWN STAR BOND PROJECT DISTRICT

SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT (this "Agreement"), is dated as of OCTOBER 9, 2017 (the "Effective Date") by and between the CITY OF SALINA, KANSAS, a municipal corporation duly organized under the laws of the State of Kansas (the "City"); and SALINA2020, INC., a Kansas corporation (the "Master Developer"), with the "Master Developer," and the "City" collectively referred to as the "Parties" and each a "Party").

RECITALS

A. The Parties desire to enter into this Agreement for purposes of jointly facilitating the development of a mixed-use economic development project generally located in downtown Salina, Kansas comprised of construction of a major multi-sport athletic complex, automotive museum, family entertainment center, expansion and renovation of an historic theater, and construction of downtown streetscape and public infrastructure improvements, as well as development and redevelopment of additional commercial, hotel, restaurant, higher educational and residential uses as further described herein (collectively, the "Project").

B. On January 23, 2017, the Governing Body of the City approved Ordinance No. 17-10873, a copy of which is attached hereto as Exhibit A, which approved that certain Development Agreement (the "Development Agreement") dated January 23, 2017 by the City and the Master Developer.

C. Sections 4.10 and 4.11 of the Development Agreement specify that allocation and administration of tax increment financing and community improvement district financing in certain circumstances is to be governed by terms described in a supplemental agreement.

D. Section 9.01 of the Development Agreement specifies that a form of the Transferee Agreement, which will serve as a template document subject to modification as specific circumstances warrant, is also to be addressed in such a supplemental agreement.

E. The Parties hereby desire to enter into this Agreement to in order to formalize the provisions required by the Development Agreement to be included within a supplemental agreement.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 101. Definitions of Words and Terms. For all purposes of this Agreement, except as otherwise provided or unless the context otherwise requires, the words and terms used in this Agreement shall have the meanings set forth in Section 1.01 of the Development

Agreement. Additional capitalized words and terms appearing in this Agreement shall have the following meanings:

“Annual Public Finance Proceeds Shortfall” means the difference between a Third-Party Developer’s Public Finance Proceeds Annual Allotment and the amount of Public Finance Proceeds actually reimbursed to the Third-Party Developer during a specific Disbursement Period.

“Eligible Costs” means, for purposes of this Agreement, New Business TIF Costs, New Retail CID Costs, and Existing Retail CID Costs.

“Disbursement Period” means the period of time occurring once a year during which disbursements of Public Finance Proceeds shall be made from each of the Funds to reimburse Eligible Costs, as further described in Section 401.C. herein.

“Existing Retail CID Costs” means costs which may be reimbursed through Downtown CID Proceeds on deposit in the Existing Retail Improvements CID Fund for building, site work and tenant improvements and other CID Eligible Costs for purposes of improving the property of Existing Retail within the Downtown CID District plus interest on such costs at a rate of 5% per annum.

“Funds” means, for the purposes of this Agreement, the New Business TIF Fund, New Retail Improvements CID Fund, and the Existing Retail Improvements CID Fund.

“Goals and Objectives” means the goals and objectives related to the downtown of the City as generally described on Exhibit E attached hereto.

“New Business TIF Costs” means costs which may be reimbursed through TIF Proceeds on deposit in the New Business TIF Fund for real property acquisition for New Businesses, as well as infrastructure, demolition, utility relocation and construction, other site preparation related costs, and other TIF Eligible Costs for such New Businesses, plus interest on such costs at a rate of 5% per annum that accrues beginning on the later of the date of execution of the applicable Transferee Agreement or the date of such expenditure.

“New Retail CID Costs” means costs which may be reimbursed through Downtown CID Proceeds on deposit in the New Retail Improvements CID Fund for reimbursement of costs for building, site work, land acquisition and tenant improvements and other CID Eligible Costs for purposes facilitating the location of New Businesses within the Downtown CID District plus interest on such costs at a rate of 5% per annum that accrues beginning on the later of the date of execution of the applicable Transferee Agreement or the date of such expenditure.

“Public Finance Proceeds Annual Allotment” means the maximum amount of Public Finance Proceeds, to be jointly determined by the City and Master Developer in their reasonable discretion, which the Third-Party Developer may access for reimbursement of Eligible Costs in any given Disbursement Period, as designated in each Transferee Agreement.

“Public Finance Proceeds Cap” means the total maximum amount of Public Finance Proceeds, to be jointly determined by the City and Master Developer in their reasonable discretion, which the Third-Party Developer may access for reimbursement of Eligible Costs, as designated in each Transferee Agreement.

“Public Finance Proceeds Surplus” means Public Finance Proceeds on deposit in any Fund at the end of a Disbursement Period in excess of the amount required to pay the Public Finance Proceeds Annual Allotment and Total Public Finance Proceeds Shortfall of all Third-Party Developers with rights to receive reimbursement from such Fund.

“Public Financing Request” means a written request substantially in the form attached hereto as **Exhibit B** to the City Representative and the Master Developer seeking an allocation of Public Finance Proceeds for reimbursement of Eligible Costs expended in developing a particular Transferee Project submitted on or after January 9, 2018.

“Total Public Finance Proceeds Shortfall” means a Third-Party Developer’s Annual Public Finance Proceeds Shortfall from the most recent Disbursement Period plus unreimbursed amounts which qualified as an Annual Public Finance Proceeds Shortfall from any previous Disbursement Period.

“Transferees” means Third-Party Developers selected by the City and the Master Developer for development of Transferee Projects and as recipients of Public Finance Proceeds pursuant to the terms of this Agreement.

“Transferee Project” means the project to be developed by each Transferee as described in the applicable Transferee Agreement.

ARTICLE II

CREATION AND UTILIZATION OF PUBLIC FINANCE FUNDS

Section 201. Creation of Segregated Funds. Article IV of the Development Agreement establishes the New Business TIF Fund, New Retail Improvements CID Fund, and the Existing Retail Improvements CID Fund (the **“Funds”**). This Agreement governs administration of the Public Finance Proceeds within the Funds.

Section 202. Utilization of Public Finance Funds. The Public Finance Proceeds deposited into the Funds shall be used in accordance with the Goals and Objectives contained in **Exhibit E** for the purposes described as follows:

- A. New Business TIF Fund. TIF Proceeds on deposit in the New Business TIF Fund shall be utilized for reimbursement of costs for real property acquisition for New Businesses, as well as infrastructure, demolition, utility relocation and construction, other site preparation related costs, and other TIF Eligible Costs for such New Businesses, plus interest on such costs at a rate of 5% per annum (the **“New Business TIF Costs”**). The

TIF Use identified as “Vacant Space/New Construction Acquisition” within the Project Budget means reimbursement through TIF Proceeds for such New Business TIF Costs.

- B. New Retail Improvements CID Fund. Downtown CID Proceeds on deposit in the New Retail Improvements CID Fund shall be utilized for reimbursement of costs for building, site work, land acquisition and tenant improvements and other CID Eligible Costs for purposes facilitating the location of New Businesses within the Downtown CID District plus interest on such costs at a rate of 5% per annum (the “**New Retail CID Costs**”). The CID Use identified as “New Tenant/Vacant Space Construction Costs” within the Project Budget means reimbursement through CID Proceeds for such New Retail CID Costs.
- C. Existing Retail Improvements CID Fund. Downtown CID Proceeds on deposit in the Existing Retail Improvements CID Fund shall be utilized for reimbursement of costs for building, site work and tenant improvements and other CID Eligible Costs for purposes of improving the property of Existing Retail within the Downtown CID District plus interest on such costs at a rate of 5% per annum (the “**Existing Retail CID Costs**”). The CID Use identified as “Improvements to Existing Retail” means reimbursement through CID Proceeds for such Existing Retail CID Costs.
- D. Real Property Acquisition. Any Public Financing Request for acquisition of real property shall be accompanied by an appraisal for such real property by a Kansas Certified General Real Property Appraiser prepared to the Uniform Standards of Professional Appraisal Practice; provided, however, an approved Public Financing Request may be more or less than the appraised value for such acquisition of real property. Only real property that is acquired after the creation of the TIF District or Downtown CID District, as applicable, shall be eligible for reimbursement.

ARTICLE III

SELECTION OF TRANSFEREES

Section 301. Recipients of Public Finance Proceeds. The Public Finance Proceeds on deposit in the Funds shall be allocated to Third-Party Developers (the “**Transferees**”) for the uses identified in Section 202 herein. The City and the Master Developer shall select Transferees as recipients of such allocation of Public Finance Proceeds pursuant to the process described in Section 302 below in order to meet the Goals and Objectives.

Section 302. Selection of Transferees as Recipients of Public Finance Proceeds.

- A. Submission of Public Financing Request. Each Transferee seeking an allocation of Public Finance Proceeds for purposes of reimbursing New Business TIF Costs, New Retail CID Costs, or Existing Retail CID Costs shall submit, no earlier than January 1, 2018, a written request to the City Representative and the Master Developer (a “**Public Financing Request**”) in the form attached as Exhibit B. The City Representative and the Master Developer reserve the right to jointly request any information in addition to that specified in Exhibit B in evaluating such Public Financing Request. Notwithstanding the foregoing, the Third-Party Developers of the Hotel Project, Alley

Project, Old Chicago Project, Car Museum, and Stiefel Improvements shall not be required to submit a Public Financing Request.

- B. Approval or Disapproval of Public Financing Request. Upon receipt of a Public Financing Request, the City Representative and the Master Developer may then jointly approve any Public Financing Request in the reasonable discretion of each Party. Any such approval of a Public Financing Request shall be confirmed in writing by the City Representative and Master Developer to the applicant making such request. If either the City Representative or the Master Developer elects to disapprove a Public Financing Request in its reasonable discretion, such Party shall notify the other Party in writing of its disapproval with a written statement of the basis of disapproval. Following such notification, the City Representative and the Master Developer shall then notify the applicant making the Public Financing Request in writing of such disapproval with a written statement of the basis of disapproval. In the event the Master Developer or any of its directors, officers, or shareholders has a substantial interest (as defined in K.S.A. 75-4301a) in any Transferee with a Public Financing Request, then Master Developer shall not participate in the approval or disapproval process for such Public Financing Request.
- C. Execution of Transferee Agreement. In the event the City Representative and the Master Developer jointly approve any Public Financing Request, the Third-Party Developer in receipt of such approval shall execute a Transferee Agreement substantially in the form attached as Exhibit C describing the rights, duties and obligations of such Third-Party Developer in connection with development of its Transferee Project, as well as additional terms as prescribed in the Transferee Agreement.

Section 303. Master Developer Recusal, Substantial Interest. The Parties agree that the Transferee Agreement for the Hotel Project shall be executed only between the Third-Party Developer of the Hotel Project and the City, and that the Master Developer shall not make or participate in making such Transferee Agreement. Further, the Master Developer agrees that it shall not make or participate in making any other Transferee Agreement in which the Master Developer or any of its directors, officers, or shareholders has a substantial interest (as defined in K.S.A. 75-4301a) in the Third-Party Developer entering into such Transferee Agreement. In such event, the City and the Third-Party Developer of such Transferee Project shall be the only parties which enter into such Transferee Agreement. The Parties acknowledge that an Affiliate of Master Developer intends to sell land to the Third-Party Developer of the Alley Project but that the Master Developer shall not be required to recuse itself from the Transferee Agreement for the Alley Project so long as none of the Master Developer's directors, officers, or shareholders has a substantial interest in the Third-Party Developer of the Alley Project.

- B. Voidable Transferee Agreements. Master Developer shall maintain on file with the City a current listing of its officers, directors and shareholders. Any Transferee Agreement the Master Developer makes or participates in making in violation of this Section may be deemed void in part or whole at the reasonable discretion of the City and all Transferee Agreements shall so provide. Questions relating to or allegations by third parties of a violation of the terms of this section shall be determined by the City's legal counsel in

consultation with legal counsel of the Master Developer and the Third-Party Developer to such Transferee Agreement.

ARTICLE IV

ADMINISTRATION OF PUBLIC FINANCE PROCEEDS

Section 401. Public Finance Proceeds Cap.

- A. Public Finance Proceeds Cap. Each Transferee Agreement shall designate a total maximum amount of Public Finance Proceeds, to be jointly determined by the City and Master Developer in their reasonable discretion, which the Third-Party Developer may access for reimbursement of Eligible Costs (the “**Public Finance Proceeds Cap**” for such Third-Party Developer). Each Transferee Agreement shall designate the Fund or Funds from which such Eligible Costs may be reimbursed and the Public Finance Proceeds Cap for the amount of Eligible Costs that may be reimbursed from each Fund.
- B. Public Finance Proceeds Annual Allotment. In addition to the total Public Finance Proceeds Cap, each Transferee Agreement shall designate a maximum amount of Public Finance Proceeds, to be jointly determined by the City and Master Developer in their reasonable discretion, which the Third-Party Developer may access for reimbursement of Eligible Costs in any given Disbursement Period (the “**Public Finance Proceeds Annual Allotment**” for such Third-Party Developer). Each Transferee Agreement shall identify the Public Finance Proceeds Annual Allotment for each Fund from which the Third-Party Developer may request reimbursement for Eligible Costs.
- C. Annual Disbursements from Funds. Each Transferee shall have the right to receive reimbursement for Eligible Costs from the applicable Fund or Funds once a year pursuant to the process outlined in Article VI of the Development Agreement. Public Finance Proceeds shall be disbursed by the City from the Funds to reimburse Eligible Costs during the following time periods (each a “**Disbursement Period**”):
- 1) New Business TIF Fund. Public Finance Proceeds shall be distributed from the New Business TIF Fund pursuant to the terms of this Agreement and the Development Agreement within the first quarter of each TIF Project Plan Year, beginning with the quarter immediately following completion of the first TIF Project Plan Year. A schedule for each disbursement period from the New Business TIF Fund is attached as **Exhibit D-1.**
 - 2) New Retail Improvements CID Fund. Public Finance Proceeds shall be distributed from the New Retail Improvements CID Fund pursuant to the terms of this Agreement and the Development Agreement within the first quarter of each 365-day year of the CID Collection Period for the Downtown CID District, beginning with the first quarter after the passage of 365 days following the commencement of the CID Collection Period. A schedule for each disbursement period from the New Retail Improvements CID Fund is attached as **Exhibit D-2.**

- 3) Existing Retail Improvements CID Fund. Public Finance Proceeds shall be distributed from the Existing Retail Improvements CID Fund pursuant to the terms of this Agreement and the Development Agreement within the first quarter of each 365-day year of the CID Collection Period for the Downtown CID District, beginning with the first quarter after the passage of 365 days following the commencement of the CID Collection Period. A schedule for each disbursement period from the New Retail Improvements CID Fund is attached as **Exhibit D-3.**

Section 402. Public Finance Proceeds Priority System. The Public Finance Proceeds on deposit in the Funds shall be administered based upon the priority system described herein:

- A. Position within Priority System. Within each Fund, Public Finance Proceeds shall be made available to reimburse Third-Party Developers for eligible New Business TIF Costs, New Retail CID Costs, and Existing Retail CID Costs, as applicable, based upon each Third-Party Developer's position within a priority system. Each Third-Party Developer's position within the priority system is determined by the date of completion of such Third-Party Developer's Transferee Project as evidenced by issuance of a Certificate of Completion.
- B. Access to Public Finance Proceeds within Priority System. During each Disbursement Period, Third-Party Developers shall have access to Public Finance Proceeds for reimbursement of Eligible Costs up to their respective Public Finance Proceeds Annual Allotments based upon their position in the priority system within each Fund. Each Third-Party Developer shall be reimbursed the entirety of its Public Finance Proceeds Annual Allotment before the Third-Party Developer immediately following within the priority system has access to any Public Finance Proceeds for reimbursement of Eligible Costs. Once any Third-Party Developer is reimbursed for Eligible Costs in an amount equal to its Public Finance Proceeds Cap, such Third-Party Developer vacates its position in the priority system and the Third-Party Developer in the next immediate priority position shall move up into such vacated position in the priority system.

Section 403. Public Finance Proceeds Allotment Shortfall and Surplus.

- A. Annual Public Finance Proceeds Shortfall. If any Third-Party Developer is not reimbursed the entire amount of its Public Finance Proceeds Annual Allotment in any Disbursement Period (despite approval by the City of a Certification of Expenditures for reimbursement of Eligible Costs through Public Finance Proceeds equal to or in excess of such Public Finance Proceeds Annual Allotment), the difference between that Third-Party Developer's Public Finance Proceeds Annual Allotment and the amount of Public Finance Proceeds actually reimbursed to the Third-Party Developer during such Disbursement Period shall equal that Third-Party Developer's "**Annual Public Finance Proceeds Shortfall**".
- B. Total Public Finance Proceeds Shortfall. A Third-Party Developer's "**Total Public Finance Proceeds Shortfall**" shall equal its Annual Public Finance Proceeds Shortfall from the most recent Disbursement Period plus unreimbursed amounts which qualified as

an Annual Public Finance Proceeds Shortfall from any previous Disbursement Period. If, in any subsequent Disbursement Period following accrual of an Annual Public Finance Proceeds Shortfall by one or more Third-Party Developers, Public Finance Proceeds are deposited into the Fund or Funds in which such shortfall occurred in excess of the amount required to reimburse the Public Finance Proceeds Annual Allotment granted to all Third-Party Developers from such Fund for that Disbursement Period, such excess Public Finance Proceeds shall be utilized to pay down the Total Public Finance Proceeds Shortfall within such Fund attributed to each Third-Party Developer based upon the priority system described herein.

- C. Public Finance Proceeds Surplus. In the event Public Finance Proceeds are on deposit in any Fund at the end of a Disbursement Period in excess of the amount required to pay the Public Finance Proceeds Annual Allotment and Total Public Finance Proceeds Shortfall of all Third-Party Developers with rights to receive reimbursement from such Fund (a "**Public Finance Proceeds Surplus**" within such Fund), such Public Finance Proceeds Surplus shall be held in reserve in such Fund. The City and the Master Developer shall then reasonably agree upon whether to utilize the Public Finance Proceeds Surplus for either i) allocation of Public Finance Proceeds Annual Allotments for additional Transferee Projects or ii) to continue to hold in reserve for payment of any Total Public Finance Proceeds Shortfall in future Disbursement Periods pursuant to the terms contained herein.

Section 404. General Provisions.

- A. Assignment and Transfer of this Agreement. Assignment and transfer of any or all rights, duties or obligations under this Agreement shall be governed by Section 9.03 of the Development Agreement, which is expressly incorporated herein.
- B. Defaults and Remedies. Events of Default and remedies therefore shall be governed by Article VIII of the Development Agreement, which is expressly incorporated herein.
- C. Notice. Notice to City and Master Developer shall be as described in the Development Agreement.
- D. Time of the Essence. Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.
- E. Required Disclosures. Each Party shall immediately notify the other Party of the occurrence of any material event which would cause any of the information furnished to other Party (by such furnishing Party) in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.
- F. Non-Binding Mediation. If a dispute or controversy arises between the City and Master Developer under this Agreement, then any Party shall be entitled to request non-binding

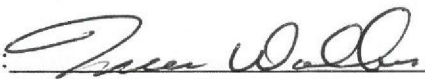
mediation, and the City and Master Developer agree to participate, in good faith, in any such mediation requested by any other Party. Any request for mediation pursuant to this section shall be made in writing and delivered to the other Parties within thirty (30) days of the action or decision giving rise to the dispute or controversy. The mediation shall occur in Salina, Kansas, and the cost of any such mediation shall be divided equally between the Parties.

- G. Kansas Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.
- H. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.
- I. Recordation of Agreement. The Parties agree to execute and deliver a memorandum of this Agreement in proper form for recording in the real property records of Saline County, Kansas, upon the request of a Party.
- J. Consent or Approval. Except as otherwise provided in this Agreement, whenever consent or approval of either Party is required, such consent or approval shall not be unreasonably withheld.
- K. Cash Basis and Budget Laws. The Parties acknowledge and agree that the ability of the City to enter into and perform certain financial obligations pursuant to this Agreement are subject to the K.S.A. 10-1101 et seq. and K.S.A. 79-2935 et seq.

[Remainder of page intentionally left blank. Signature pages immediately follow.]

MASTER DEVELOPER:

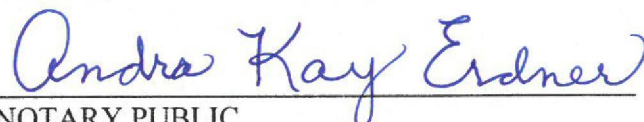
SALINA2020, INC.,
a Kansas corporation

By: 
Trace Walker, Secretary/Treasurer

STATE OF KANSAS)
) ss.
COUNTY OF SALINE)

On this 17th day of October, 2017, before me personally appeared Trace Walker, to me personally known, who being by me duly sworn did say that he is the Secretary/Treasurer of Salina2020, Inc., and that said instrument was signed and delivered on behalf of said corporation and acknowledged to me that he executed the same as the free act and deed of said corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.


NOTARY PUBLIC

My Commission Expires:

February 4, 2019
[SEAL]

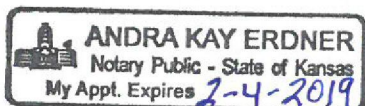


EXHIBIT A

ORDINANCE

(SEE ATTACHED)

EXHIBIT B

PUBLIC FINANCING REQUEST APPLICATION

PROJECT NAME & ADDRESS

APPLICANT NAME, ADDRESS, PHONE & EMAIL

DETAILED INFORMATION AS OUTLINED BELOW

(A) PROPOSED PROJECT.

- 1) Detailed description of the Project including site plans and renderings; proposed uses and zoning; Proposed project schedule; and project phasing (if applicable);
- 2) Map and legal description showing the boundaries of the Project (the "Project Site");
- 3) Description of existing uses and condition of the Project Site (include photographs and other information);
- 4) List of all parcels within the within the Project Site including:
 - a. Project Site owner's name and address;
 - b. legal description for each parcel;
 - c. Saline County parcel identification number; and
 - d. current market and assessed value for all land and improvements on each parcel.
- 5) Evidence of ownership of the Project Site or evidence of site control;
- 6) A list of all businesses currently located within the Project Site including:
 - a. Business name and address;
 - b. Square footage of each business; and
 - c. Business owner / contact and address.
- 7) Information regarding the businesses, individuals, and/or facilities that will be relocated as a result of the proposed Project.
- 8) Information concerning any tenant or new business to be located upon the Project Site, including the square footage of such tenant or new business.

(B) PROJECT SOURCES AND USES.

- 1) Project Costs (Uses) – Provide detailed development cost estimates including detailed hard and soft costs broken out by type and funding source. Special costs of redevelopment should be identified as part of this detail.
- 2) Private Financing (Sources) – Provide information regarding sources of private project financing as follows:
 - a. Amount and source of equity to be provided;
 - b. Information regarding project construction loan including:
 - i. Amount and terms of construction loan(s);
 - ii. Name of Lender(s) and contact information;
 - iii. Letter of interest or evidence of commitment to provide funds from the lending institution(s) signed by the Lender(s) and noting conditions and contingencies, if any.
- 3) Public Financing (Sources) – Provide the total amount of all Public Funding sources proposed to fund project costs. Information should include the calculation and assumptions used in determining the amount of public funds available for use should include:
 - a. For TIF
Provide estimated increment produced by new project supported by an explanation of the assumptions used to establish the new tax basis (i.e., estimated valuation) and demonstrate calculation of the increment.
 - b. For CID:
Provide estimated revenues supported by an explanation of assumptions used in making revenue assumptions (i.e., projected annual sales and sales per square foot) and calculation of available revenues.

(C) PROJECT FEASIBILITY.

- 1) Analysis of market and feasibility of the proposed project. If a formal feasibility or comparable studies have been prepared, please provide.
- 2) Identify proposed tenants and mix of tenant types expected for the project.
- 3) Provide information about leases that have been signed and or are being negotiated.

- 4) Summarize the potential risks, market and otherwise and the plan for addressing and mitigating these risks.

(E) DEVELOPER AND DEVELOPMENT TEAM.

- 1) Describe the Developer/Development Company, its ownership and affiliated/ partner companies. Describe the specific legal entity that will act as the developer and/or owner of the project.
- 2) Provide a profile/resume of the principal member(s) of the development team which describes the background and development experience of each individual on the team and the relevant experience of each in creating developments similar to the one proposed. Information should include the address, telephone number(s) and email address of each team member.
- 3) Identify the project team consultants involved or proposed to be involved in the project and the experience of each team member on similar projects (i.e. architect, engineer, contractor, legal counsel.)
- 4) Provide letter from a financial institution indicating that the Applicant has sufficient financial resources to obtain the private financing for the project.
- 5) Provide a description of at least three similar projects including references/contacts for individuals familiar with these similar project(s). Describe if the project included public financing and if so, details concerning same.

EXHIBIT C

TRANSFeree AGREEMENT TEMPLATE

(SEE ATTACHED)

TRANSFeree AGREEMENT

THIS TRANSFeree AGREEMENT (this "Agreement"), is made and entered into this ____ day of _____, 20__ (the "Effective Date") between and among the CITY OF SALINA, KANSAS, a municipal corporation duly organized under the laws of the State of Kansas (the "City"), SALINA 2020, INC., a Kansas corporation (the "Master Developer") and _____, a _____ ("Transferee") (collectively, the "Parties" and each a "Party").

RECITALS:

A. City and Master Developer have entered into that certain Development Agreement (the "Development Agreement") dated as of January 23, 2017 concerning development of a mixed-use project located generally within downtown Salina, Kansas as more specifically described in Section 3.01 of the Development Agreement (the "Project"). Capitalized terms which are not otherwise defined herein shall have the meanings assigned to them in the Development Agreement.

B. Article IX of the Development Agreement provides for assignment by the City and Master Developer of certain obligations, covenants, and agreements under the Development Agreement to third parties. Accordingly, the City and the Master Developer desire to transfer certain obligations, covenants, and agreements to Transferee in accordance with Article IX with respect to the portion of the Project described in Exhibit A attached hereto (the "Transferee Project"). A legal description and boundary map of the location of the Transferee Project is attached as Exhibit B hereto, which shall hereinafter be referred to as the "Project Area".

C. The Parties desire to enter into this Agreement so that the Transferee shall acknowledge, assume and agree to perform those obligations, covenants and agreements under the Development Agreement (as well as additional terms described herein) as the same pertain to the design, construction, completion and operation of the Transferee Project.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Incorporation of Recitals. The parties understand and agree that the Recitals set forth above are hereby incorporated as though more fully set forth herein.

Term of Agreement and Master Developer's Rights. This Agreement shall commence upon the Effective Date and shall terminate upon that date which is the earlier of (i) the last day of the [TIF Collection Period/CID Collection Period/date of termination of the STAR Bond Project Plan], (ii) the date that the Transferee has been reimbursed for all Eligible Transferee Costs by Public Finance Proceeds, or (iii) the date this Agreement is terminated pursuant to Section 5 or Section 13 herein (the "Term"). Notwithstanding the foregoing, the Master

Developer's rights, duties, and obligations under this Agreement shall expire on the date of the Certificate of Full Completion for the Transferee Project.

General Acknowledgement and Assumption. Transferee hereby acknowledges, assumes and agrees to perform each and every obligation, covenant and agreement under the Development Agreement, except as modified below, but only to the extent that the same shall pertain to the design, construction, completion and operation of the Transferee Project, each of which is hereby incorporated as though more fully set forth herein. Transferee hereby understands and agrees that the City or Master Developer may enforce the same directly against Transferee. Notwithstanding the foregoing, the Transferee Project to be completed by the Transferee shall be defined by Exhibit A to this Agreement, which shall control with regard to description of the Transferee Project. Transferee acknowledges that it has received a copy of the Development Agreement and any amendments thereto, and has reviewed the terms of same with counsel of its own election.

Specific Acknowledgement and Assumption.

Development Agreement Provisions Assumed by Transferee. In connection with the Transferee Project, Transferee specifically acknowledges, assumes and agrees to perform the following obligations, covenants and agreements, set forth in the Development Agreement, as modified in certain instances below:

All of the terms and conditions in Article I (Definitions and Rules of Construction).

All of the representations and warranties of the Master Developer made in Article II. In addition, Transferee makes the following representations:

No Material Change. There has been no material adverse change in the business, financial position, prospects or results of operations of the Transferee which could affect the Transferee's ability to perform its obligations pursuant to the Agreement.

Compliance with Laws. Transferee, to the best of its knowledge, is in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement and the Development Agreement.

Construction Permits. Except for Permitted Subsequent Approvals, all governmental permits and licenses required by applicable law to construct, occupy and operate the Transferee Project have been issued and are in full force and effect or, if the present stage of development does not allow such issuance, the Transferee reasonably believes, after due inquiry of the appropriate governmental officials, that such permits and licenses will be issued

in a timely manner in order to permit the Transferee Project to be constructed.

All of the terms and conditions set forth in Article III as the same relate to the Transferee Project and rights, duties and obligations of the Third-Party Developer of the Transferee Project.

All of the terms and conditions set forth in Article IV as the same relate to the Transferee Project and rights, duties and obligations of the Third-Party Developer of the Transferee Project.

All of the terms and conditions set forth in Article VI as the same relate to the Transferee Project and rights, duties and obligations of the Third-Party Developer of the Transferee Project.

All of the terms and conditions set forth in Article VII as the same relate to the Transferee Project and rights, duties and obligations of the Third-Party Developer of the Transferee Project.

All of the terms and conditions set forth in Article VIII as the same relate to the Transferee Project and rights, duties and obligations of the Third-Party Developer of the Transferee Project.

All of the terms and conditions set forth in Article IX as the same relate to the Transferee Project and rights, duties and obligations of the Third-Party Developer of the Transferee Project.

All of the terms and conditions in Article X (General Provisions).

Non-Exclusive. Each of the foregoing provisions is hereby incorporated by reference and Transferee hereby understands and agrees that the City or Master Developer may enforce the same against Transferee in connection with the Transferee Project. Further, the Parties understand and agree that if and to the extent the various exhibits attached to the Development Agreement are referenced in the obligations that are acknowledged and assumed by the Transferee, such exhibits are hereby incorporated by reference as though more fully set forth herein. Notwithstanding the foregoing, the Transferee Project to be completed by the Transferee shall be defined by Exhibit A to this Agreement, which shall control with regard to description of the Transferee Project. The Transferee acknowledges that the provisions of the Development Agreement referenced in this Section is not exclusive of the provisions of the Development Agreement assumed by Transferee in connection with the Transferee Project, and that Transferee assumes all provisions of the Development Agreement applicable to the Transferee and the Transferee Project regardless of specific inclusion within this Section.

Provisions Specifically Not Assumed by Transferee. Notwithstanding anything set forth herein which is seemingly to the contrary, the Parties hereby acknowledge and agree that Transferee shall have no obligation to perform any of the obligations under the

following provisions, nor shall Transferee have any rights related to the following provisions:

All of the terms and conditions set forth in the Development Agreement regarding development, financing, and operation of (or otherwise applying to) any other Project Component other than the Transferee Project.

All of the terms and conditions set forth in Article V (STAR Bond Issuance).

Performance Milestones. The Parties hereby agree that construction of the Transferee Project, subject to circumstances set forth in Section 8.08 of the Development Agreement, shall be undertaken in accordance with the following schedule (the "Performance Milestones"):

Commencement of the Transferee Project. Transferee shall commence construction of the Transferee Project by [_____]. Commencement of the Transferee Project shall mean:

A construction permit, and all other permits required pursuant to the City codes and ordinances, necessary for the commencement of construction or provision of the Transferee Project;

Certificates evidencing that insurance policies have been procured by Transferee for all insurance required pursuant to Section 7 of this Agreement;

A copy of an executed guaranteed maximum price contract between Transferee and its general contractor for the construction and completion of the Transferee Project (or equivalent agreement in the discretion of the City and the Master Developer), evidence that such general contractor is a registered contractor in good standing in the City of Salina, Kansas, the State of Kansas, and its state of domicile, and copies of performance, labor, and material payment bonds in connection with the Transferee Project (unless City and Master Developer agree otherwise in their joint discretion);

Documents reasonably satisfactory to the City and Master Developer that Transferee has obtained financing adequate to fully and finally construct and develop the Transferee Project in accordance with the critical path schedule and final project budget;

A critical path schedule and final project budget reasonably consistent with the preliminary project budget for the development and construction of the Transferee Project, and agreement upon the same by Transferee, the City Representative, and Master Developer (to be supplemented and attached hereto as Exhibit C-1 and Exhibit C-2, respectively);

Any and all other materials reasonably requested by the City and Master Developer evidencing the ability of Transferee to imminently commence construction of the Transferee Project with the capability to fully and finally

complete the Transferee Project with diligence, which may include, without limitation, elevations, marketing materials, financing information, and business plans;

[For New Business TIF Requests and Retail Improvement Requests – A copy of an executed lease with any proposed tenant or, if Transferee is a tenant, a copy of its lease with the landlord];

Transferee's undertaking of a continuous and uninterrupted program of construction for such Transferee Project.

Construction of the Transferee Project. Transferee shall construct the Transferee Project in a good and workmanlike manner in accordance with the terms of this Agreement and the Development Agreement. Upon reasonable advance notice, the Transferee shall meet with the City to review and discuss the design and construction of the Transferee Project in order to enable the City to monitor the status of construction and to determine that the Transferee Project is being performed and completed in accordance with this Agreement and the Development Agreement.

Completion of the Transferee Project. The Transferee shall cause the Transferee Project to be completed with due diligence. Transferee shall complete construction of the Transferee Project by _____. Completion of the Transferee Project shall mean receipt of a Certificate of Completion as defined in Section 3.07 of the Development Agreement.

Failure to Comply with Performance Milestones.

Failure to Timely Commence or Complete the Project. In the event that Transferee shall fail to meet any of the Performance Milestones set forth in this Section, then the City may require Transferee to appear before the City to show cause as to why Transferee failed to comply with the Performance Milestones. If Transferee cannot show cause for the delay which is reasonably satisfactory to the City, the City may exercise any or all of the following remedies:

Failure to Timely Commence. In the event Transferee does not commence the Transferee Project within 90 days following the commencement date identified in Section 5(a) herein, the City may provide written notice to Transferee of its election to reduce the Public Financing Cap described in Section 6(b) herein by twenty-five percent (25%), unless otherwise agreed by the City and Master Developer. In the event Transferee does not commence the Transferee Project within 120 days following the commencement date identified in Section 5(a) herein, the City may provide written notice to Transferee of its election to cumulatively reduce the Public Financing Cap described in Section 6(b) herein by fifty percent (50%), unless otherwise agreed by the City and Master Developer. In the event Transferee does not commence the Transferee Project within 180 days following the commencement date identified in Section 5(a) herein, the City may provide written notice to Transferee of its election to terminate the rights,

duties and obligations of Transferee under the Development Agreement and this Agreement unless otherwise agreed by the City and Master Developer. The City shall provide written notice to the Master Developer and Transferee of its intent to provide notice to the Transferee as provided herein a minimum of twenty (20) business days prior to providing such notice to Transferee. Each of the deadlines described in this section shall be subject to extensions of time as set forth in Section 8.09 of the Development Agreement. In the event the City provides notice to the Transferee of a reduction to its Public Financing Cap pursuant to this section, the City and Master Developer may elect, in their joint discretion, to provide Transferee written notice of an extension of the completion deadline contained in Section 5(c).

Failure to Timely Complete. In the event Transferee does not complete the Transferee Project within 90 days following the completion date identified in Section 5(c) herein, the City may provide written notice to Transferee of its election to reduce the Public Financing Cap described in Section 6(b) herein by twenty-five percent (25%), unless otherwise agreed by the City and Master Developer. In the event Transferee does not complete the Transferee Project within 120 days following the completion date identified in Section 5(c) herein, the City may provide written notice to Transferee of its election to cumulatively reduce the Public Financing Cap described in Section 6(b) herein by fifty percent (50%), unless otherwise agreed by the City and Master Developer. In the event Transferee does not complete the Transferee Project within 180 days following the completion date identified in Section 5(c) herein, the City may provide written notice to Transferee of its election to terminate the rights, duties and obligations of Transferee under the Development Agreement and this Agreement, unless otherwise agreed by the City and Master Developer. The City shall provide written notice to the Master Developer and Transferee of its intent to provide notice to the Transferee as provided herein a minimum of twenty (20) business days prior to providing such notice to Transferee. Each of the deadlines described in this section shall be subject to extensions of time as set forth in Section 8.09 of the Development Agreement.

Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement or the Development Agreement, the rights and remedies of the parties are cumulative, and the exercise by a party of one or more of such rights or remedies under this Agreement or the Development Agreement (pursuant to Section 13 herein) shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Delay Caused by Streetscape Construction. In no event shall the City pursue any remedies contained in this section for delays in commencement or completion of the Transferee Project directly caused by construction of any Streetscape and Public Infrastructure Improvements. In the event of delays in the commencement or completion of the Transferee Project directly caused by construction of the Streetscape and Public Infrastructure Improvements, the

obligations of the Transferee to commence or complete the Transferee Project shall be delayed an amount of time equivalent to the period of delay directly caused by construction of the Streetscape and Public Infrastructure Improvements. In such event the Transferee shall provide written documentation to the City that evidences that the delay in such Streetscape and Public Infrastructure Improvements will or has directly resulted in the delay of commencement or completion of the Transferee Project.

Public Finance Proceeds and City Funds.

Conditions Precedent to Access to Public Finance Proceeds. Prior to access to Public Finance Proceeds and/or City Funds for purposes of partially financing the Transferee Project and the right to submit a Certification of Expenditures for reimbursement for Eligible Transferee Costs through Public Finance Proceeds and/or City Funds pursuant to the provisions of the Development Agreement, Transferee must have obtained a Certificate of Completion for the Transferee Project as defined in Section 3.07 of the Development Agreement (the "Public Finance Access Condition"). [This Section shall not be utilized in the Transferee Agreement for the Stiefel Improvements or the Car Museum.]

Public Financing Cap. Following Transferee's satisfaction of the Public Finance Access Condition (as applicable), City and Master Developer will provide Transferee access to [STAR Bond Proceeds/TIF Proceeds/CID Proceeds/City Funds] in the amount of \$[X] from the [X] Fund to be used by Transferee solely for financing those costs of the Transferee Project as identified in the column labeled [STAR Bond Uses/TIF Uses/CID Uses/City Funds Uses] in the Project Budget attached as Exhibit C-2 ("Eligible Transferee Costs"), in all cases subject to and in accordance with the terms of the Development Agreement, this Agreement, the Bond Trust Indenture, and Kansas law (the "Public Financing Cap"). [For Transferee Projects to be reimbursed with TIF Proceeds/CID Proceeds add "Transferee hereby acknowledges and agrees such Public Finance Proceeds shall be available to Transferee on a pay-as-you-go basis in accordance with the terms of the Development Agreement and that City and Master Developer do not guarantee any specific amount of Public Finance Proceeds will actually be available to Transferee for reimbursement of Eligible Transferee Costs. Further, Transferee hereby acknowledges and agrees it shall not commence or join any cause of action or other legal recourse under this Agreement, the Development Agreement, or in law or equity against City or Master Developer (and acknowledges that it possesses no such cause of action or legal recourse) in the event Transferee receives reimbursement for Eligible Transferee Costs through Public Finance Proceeds in an amount less than Transferee's Public Financing Cap."]. In the event City Funds shall be made available to Transferee to partially finance the Transferee Project pursuant to the terms of this Agreement, City agrees and acknowledges that City shall provide to Transferee (pursuant to the process described in Article VI of the Development Agreement) such full amount of City Funds identified herein so long as Transferee is in compliance with all terms of this Agreement and the Development Agreement. All costs of developing the Transferee Project, including Eligible Transferee Costs, in excess of the Public Finance Proceeds and City Funds actually received by Transferee shall be the sole responsibility of Transferee. In

order to access such [STAR Bond Proceeds/TIF Proceeds/CID Proceeds/City Funds], Transferee shall submit Certifications of Expenditures to the City in a manner consistent with Article VI of the Development Agreement [For STAR Bond reimbursement add “and a Project Fund Disbursement Request form in a manner consistent with the terms of that certain Bond Trust Indenture”].

Public Finance Proceeds Annual Allotment. [Include for Transferees granted reimbursement through New Business TIF Proceeds, New Retail CID Proceeds or Existing Retail CID Proceeds] Pursuant to the terms of that certain Supplemental Agreement, Transferee’s Public Finance Proceeds Annual Allotment shall equal [X]. Such Public Finance Proceeds Annual Allotment may be utilized to reimburse Eligible Costs from the [X] Fund in accordance with the terms of this Agreement, the Development Agreement, and the Supplemental Agreement.

[STAR Bonds. The City expects to issue STAR Bonds to provide STAR Bond Proceeds for use in reimbursing costs of the Transferee Project, among other Project Components, and has engaged the Underwriter to underwrite the STAR Bonds. The Underwriter has advised the City that various representations, warranties and assurances from the Transferee may be required to assure investors in the STAR Bonds that the Transferee Project will be constructed and opened in a timely manner. Transferee hereby acknowledges and agrees that the timing of, access to and the amount of any STAR Bond Proceeds to be made available to Transferee is dependent on the City’s ability to issue the STAR Bonds on terms that are commercially reasonable to the City and the Underwriter’s ability to successfully underwrite such STAR Bonds. To the extent required by the Underwriter, the Transferee agrees to provide the information in form and substance reasonably requested by the Underwriter, including, but not limited to, the following for the Transferee Project: (i) guaranteed maximum price construction contract or other equivalent agreement for construction services, as appropriate, (ii) payment and performance bonds or other similar indicia of security for completion of the Transferee Project, (iii) insurance policies, (iv) evidence of availability of loan and equity funds necessary for the timely completion of the Transferee Project, which may be provided pursuant to a letter for commitment to finance the Transferee Project issued by a qualified lender; (v) any leases or contracts for any applicable portion of the Transferee Project and (vi) cooperation in calculation of the sales tax for any portion of the Transferee Project that will generate taxable retail sales.]

Public Finance Limitation. [This Section shall not be utilized in the Transferee Agreement for either the Stiefel Improvements or the Car Museum. This Section, including the percentage amount of the Private Contribution, shall be modified in each Transferee Agreement; provided, however, that the Private Contribution percentage shall not be less than 50%. Notwithstanding the foregoing, each Transferee Agreement for use of Existing Retail CID Proceeds for Transferee Projects commenced during construction of the Streetscape and Public Infrastructure Improvements shall require expenditure of Total Project Costs in a ratio of 30% Private Contribution to every 70% of Existing Retail CID Proceeds reimbursed to such Transferee.]

In addition to the foregoing conditions applicable to the disbursement of [STAR Bond Proceeds/TIF Proceeds/CID Proceeds] to the Transferee, the [STAR Bond Proceeds/TIF Proceeds/CID Proceeds] available to Transferee for reimbursement of Eligible Transferee Costs shall not exceed _____ percent (____%) of the amount of the actual costs expended by Transferee to develop the Transferee Project ("Total Project Costs"). The remainder of all Total Project Costs, in an amount no less than _____ percent (____%) of such Total Project Costs, shall be paid by Transferee through a combination of private debt and equity (the "Private Contribution"). In other words, there shall not be more than _____% of Total Project Costs paid with [STAR Bond Proceeds/TIF Proceeds/CID Proceeds] (the "Public Finance Limitation").

The Certification of Expenditures submitted by Transferee shall include evidence of payment for Total Project Costs paid with the Private Contribution in an amount which is no less than _____% of the Total Project Costs incurred at the time of such Certification of Expenditures in order to satisfy the Public Finance Limitation. In other words, the cumulative amount of Total Project Costs included in the Certification of Expenditures from the Private Contribution must equal no less than _____% of the cumulative amount of Total Project Costs in order for _____% of such Total Project Costs to be eligible for reimbursement through [STAR Bond Proceeds/TIF Proceeds/CID Proceeds].

Insurance. Each Third-Party Developer shall keep the Transferee Project continuously insured against such risks and in such amounts, with such deductible provisions as are customary in connection with the operation of facilities of the type and size comparable to the Transferee Project.

Indemnification of City and Master Developer. Transferee agrees to indemnify and hold the City and Master Developer, and the employees, agents and independent contractors and consultants of the City and the Master Developer (collectively, the "Indemnified Parties") harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and reasonable attorneys' fees, resulting from, arising out of, or in any way connected with:

Transferee's actions and undertaking in implementation of the Transferee Project, the Development Agreement, this Agreement, and the [Project Plans/CID Petitions];

the negligence or willful misconduct of Transferee, its employees, agents or independent contractors and consultants in connection with the management, design, development, redevelopment and construction of the Transferee Project; and

any delay or expense resulting from any litigation filed against Transferee by any member or shareholder of Transferee, any prospective investor, prospective partner or joint venture partner, lender, co-proposer, architect, contractor, consultant or other vendor.

This Section shall not apply to willful misconduct or gross negligence of the City or Master Developer or the officers, employees or agents of City or Master Developer. This Section includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"; 42 U.S.C. Section 9601, *et seq.*), (ii) the Resource Conservation and Recovery Act ("RCRA"; 42 U.S.C. Section 6901 *et seq.*) and (iii) Article 34, Chapter 65, K.S.A. and all amendments thereto, at any place where such Transferee owns or has control of real property pursuant to any of Transferee's activities under the Development Agreement and this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA to assure, protect, hold harmless and indemnify City and Master Developer from liability.

Payment of Taxes and Liens. Transferee hereby agrees as follows:

Payment of Property Taxes. During the Term of this Agreement, Transferee and its respective Affiliates shall pay when due all real estate taxes and assessments on the property it owns within the Districts. However, The obligation to pay real estate taxes and assessments on such property shall not be a personal obligation of the Transferee and its respective Affiliates but are subject to the same provisions related to enforcement and collection of real estate taxes and assessments under laws of the State. In the event that the Transferee or its Affiliates shall fail to pay all such applicable real estate taxes and assessments after any notice and cure periods set forth in Section 8.02 of the Development Agreement, the Transferee understands and agrees that, among other things, the City may (i) terminate financing of the Transferee Project through Public Finance Proceeds, (ii) suspend all reimbursements of Eligible Transferee Costs through Public Finance Proceeds during any time that such real estate taxes and assessments on the property owned by Transferee and its respective affiliates within the Districts remain unpaid or (iii) exercise any other remedies under this Agreement and/or the Development Agreement. Notwithstanding the foregoing, nothing contained in this Agreement shall prohibit the Transferee and its respective affiliates from contesting the assessed value of the properties, improvements or the taxes thereon in good faith by appropriate proceedings; provided however that each such party shall pay any and all amounts that are contested under protest while any such proceedings are pending. The Transferee and its respective affiliates shall promptly notify the City in writing of a protest of real estate taxes or valuation of property owned by the Transferee or its respective affiliates within the Districts.

Liens. Transferee and its respective affiliates further agree that no mechanics' or other liens shall be established or remain against the Transferee Project or the property within the Districts, or the funds in connection with any of the Transferee Project, for labor or materials furnished in connection with any acquisition, construction, additions, modifications, improvements, repairs, renewals or replacements so made. However, Transferee shall not be in default if mechanics' or other liens are filed or established and the Transferee and its respective Affiliates contests in good faith said mechanics' liens

and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom.

Sales Tax Collection. If Transferee is engaged in the business of selling tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailers' sales tax act and amendments thereto (K.S.A. 79-3601 *et seq.*) within any of the Districts, Transferee shall collect, and make returns of, all taxes levied under the Kansas retailers' sales tax act and any CID Sales Tax imposed within the District in which Transferee is engaged in such business, all in the manner and at the times prescribed by applicable law. The Transferee shall be obligated to provide the City, along with its submission to the Kansas Department of Revenue, copies of the monthly sales tax returns for its businesses within the Districts. To the extent it may legally do so, information obtained pursuant to this Section shall be kept confidential by the City in accordance with Applicable Law and Requirements, including but not limited to K.S.A. 79-3657.

Damage, Destruction or Condemnation.

In the event of damage to or destruction of any portion of the Transferee Project (other than the public roads, public right of way and public lands within the Transferee Project) resulting from fire or other casualty during the Term (a "Casualty"), or in the event any portion of the Project Area is condemned or taken for any public or quasi-public use or title thereto is found to be deficient during the Term, the net proceeds of any insurance relating to such damage or destruction, the net proceeds of such condemnation or taking or the net proceeds of any realization on title insurance shall be paid into, and used in accordance with a construction escrow agreement reasonably satisfactory to the City, Transferee, and Transferee's construction or permanent lender ("Casualty Escrow").

If, at any time during the Term, the Transferee Project or any part thereof (other than the public roads, public right of way and public lands within the Project) shall be damaged or destroyed by a Casualty (the "Damaged Facilities"), Transferee, at its sole cost and expense, shall commence and thereafter proceed as promptly as possible to repair, restore and replace the Damaged Facilities as nearly as possible to their condition immediately prior to the Casualty and shall be entitled to draw upon the Casualty Escrow for payment of said costs.

If at any time during the Term, title to the whole or substantially all of the portion of the Project Area owned by Transferee (or its Affiliate) shall be taken in condemnation proceedings or by right of eminent domain, Transferee, at its sole discretion, may terminate this Agreement as of the date of such taking. For purposes of this Section, "substantially all of the Project Area" shall be deemed to have been taken if the City and Transferee, each acting reasonably and in good faith, determine that the untaken portion of the Project Area cannot be practically and economically used by Transferee for the purposes and at the times contemplated by this Agreement.

In the event of condemnation of less than the whole or substantially all of the portion of the Project Area owned by the Transferee (or its Affiliate) during the Term,

Transferee, at its sole cost and expense, shall commence and thereafter proceed as promptly as possible to repair, restore and replace the remaining part of the Transferee Project, as nearly as possible, to its former condition, and shall be entitled to draw upon the Casualty Escrow for payment of said costs.

Nothing in this Section will require the Transferee to expend funds in excess of the Casualty Escrow or to perform any obligation in addition to those obligations contained in the Development Agreement or in this Agreement.

Rights of Access and Inspection.

Representatives of the City shall have the right of access to the Transferee Project, without charges or fees, at normal construction hours during the period of construction, for the purpose of ensuring compliance with this Agreement, including, but not limited to, the inspection of the work being performed in constructing, renovating, improving, equipping, repairing and installing the Transferee Project, so long as they comply with all safety rules. Except in case of emergency, prior to any such access, such representatives of the City will check in with the on-site manager. Such representatives of the City shall carry proper identification, shall insure their own safety, assuming the risk of injury, and shall not interfere with the construction activity.

The Transferee shall maintain complete, accurate, and clearly identifiable records with respect to the Transferee Project, Eligible Transferee Costs and any other documents created pursuant to, or arising under, this Agreement, including, but not limited to, as applicable: all general contractor's sworn statements, general contracts, subcontracts, material purchase orders, waivers of lien, and paid receipts and invoices (collectively, the "Records"). The Records shall be maintained during the term of this Agreement, and for a period of two (2) years thereafter (the "Retention Period"); provided, however, that if any litigation, claim or audit is commenced prior to the expiration of the Retention Period, then the Retention Period shall be extended until all litigation, claims or audit findings have been completely terminated or resolved, without right of further appeal.

During the Retention Period, Transferee further agrees that the City, with reasonable advance notice and during normal business hours, shall have the right and authority to review, inspect, audit, and copy, from time to time, all of Transferee's Records as pertinent to the purposes of, or to ensure compliance with, this Agreement. In addition, Transferee agrees to provide the City with copies of such Records, upon request. The City shall periodically report the findings of such inspections to Master Developer in writing; provided, however, that nothing contained herein shall create an affirmative obligation of the Master Developer to perform any inspections of the Transferee Project or evaluate the adequacy of the construction of the Transferee Project.

Assignment and Transfer of this Agreement. Assignment and transfer of any or all rights, duties or obligations under this Agreement shall be governed by Section 9.03 of the Development Agreement, which is expressly incorporated herein.

Defaults and Remedies. Events of Default and remedies therefore shall be governed by Article VIII of the Development Agreement, which is expressly incorporated herein.

Release of Master Developer. To the extent that Transferee has assumed any obligations, terms or conditions of the Master Developer in connection with the Transferee Project under the Development Agreement pursuant to execution of this Agreement, the City hereby specifically agrees to release the Master Developer from such obligations, terms and conditions.

Notice. Notice to City and Master Developer shall be as described in the Development Agreement. Notice to Transferee shall be made to the following:

To the Transferee:

Attn: _____

With copies to:

Time of the Essence. Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation. Required Disclosures. Each Party shall immediately notify the other Party of the occurrence of any material event which would cause any of the information furnished to other Party (by such furnishing Party) in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

Non-Binding Mediation. If a dispute or controversy arises between the City, Master Developer, or Transferee under this Agreement, then any Party shall be entitled to request non-binding mediation, and the City, Master Developer, and Transferee agree to participate, in good faith, in any such mediation requested by any other Party. Any request for mediation pursuant to this section shall be made in writing and delivered to the other Parties within thirty (30) days of the action or decision giving rise to the dispute or controversy. The mediation shall occur in Salina, Kansas, and the cost of any such mediation shall be divided equally between the Parties.

Tax Implications. The Transferee acknowledges and represents that (1) neither the City nor Master Developer, nor any of their officials, employees, consultants, attorneys or other agents has provided to the Transferee any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Transferee is relying solely upon its own tax advisors in this regard.

Kansas Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

Recordation of Agreement. The Parties agree to execute and deliver a memorandum of this Agreement in proper form for recording in the real property records of Saline County, Kansas, upon the request of a Party.

Cash Basis and Budget Laws. The Parties acknowledge and agree that the ability of the City to enter into and perform certain financial obligations pursuant to this Agreement are subject to the K.S.A. 10-1101 *et seq.* and K.S.A. 79-2935 *et seq.*

Electronic Storage. The Parties agree that the transactions described herein may be conducted and related documents may be received, sent or stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Master Developer Recusal. Transferee acknowledges that Section 3.10 of the Development Agreement prohibits the Master Developer from making or participating in the making of any Transferee Agreement in which the Master Developer or any of its directors, officers, or shareholders has a substantial interest (as defined in K.S.A. 75-4301a) in the Third-Party Developer entering into such Transferee Agreement. In such event, the City and the Third-Party Developer of such Project Component shall be the only parties which enter into such Transferee Agreement. Any Transferee Agreement the Master Developer makes or participates in making in violation of Section 3.10 of the Development Agreement may be deemed void in part or whole at the reasonable discretion of the City.

[Remainder of page intentionally left blank. Signature pages immediately follow.]

IN WITNESS WHEREOF, the City, Master Developer and Transferee have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF SALINA, KANSAS

_____, Mayor

[SEAL]

ATTEST:

Shandi Wicks, CMC, City Clerk

APPROVED AS TO FORM:

_____, City Attorney

STATE OF KANSAS)
) ss.
COUNTY OF SALINA)

On this _____ day of _____, 201__, _____,
personally known to me and after first being sworn did state that he/she is the Mayor of the City
of Salina, State of Kansas, and that the seal affixed to the foregoing instrument is the official
Seal of the City of Salina, and that said instrument was signed and sealed on behalf of the City,
and that the matters set forth herein are true and correct to the best of his/her and the City's
knowledge, information and belief, and acknowledge that he executed the same on behalf of the
City as its free act and deed.

Notary Public

My Commission Expires:

IN WITNESS WHEREOF, the City, Master Developer and Transferee have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

MASTER DEVELOPER:

SALINA2020, INC.,
a Kansas corporation

By: _____
Trace Walker, _____

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201____, before me personally appeared Trace Walker, to me personally known, who being by me duly sworn did say that he is the _____ of Salina2020, Inc., and that said instrument was signed and delivered on behalf of said corporation and acknowledged to me that he executed the same as the free act and deed of said corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC

My Commission Expires:

[SEAL]

TRANSFeree:

S-3

EXHIBIT A TO TRANSFeree AGREEMENT
Description of Transferee Project

**[ATTACH NARRATIVE DESCRIPTION, SITE PLAN, RENDERINGS AND
PRELIMINARY PROJECT BUDGET]**

EXHIBIT B TO TRANSFEREE AGREEMENT
Legal Description and Boundary Map

[SEE ATTACHED]

EXHIBIT C-1 TO TRANSFEREE AGREEMENT
Critical Path Schedule

[SEE ATTACHED]

EXHIBIT C-2 TO TRANSFEREE AGREEMENT
Project Budget

[SEE ATTACHED]

EXHIBIT D-1

SCHEDULE OF DISBURSEMENT PERIODS FROM NEW BUSINESS TIF FUND

| <u>Disbursement Period</u> | <u>Dates of Period</u> |
|-----------------------------------|-------------------------------|
| 1 | 11/1/19 – 12/31/19 |
| 2 | 11/1/20 – 12/31/20 |
| 3 | 11/1/21 – 12/31/21 |
| 4 | 11/1/22 – 12/31/22 |
| 5 | 11/1/23 – 12/31/23 |
| 6 | 11/1/24 – 12/31/24 |
| 7 | 11/1/25 – 12/31/25 |
| 8 | 11/1/26 – 12/31/26 |
| 9 | 11/1/27 – 12/31/27 |
| 10 | 11/1/28 – 12/31/28 |
| 11 | 11/1/29 – 12/31/29 |
| 12 | 11/1/30 – 12/31/30 |
| 13 | 11/1/31 – 12/31/31 |
| 14 | 11/1/32 – 12/31/32 |
| 15 | 11/1/33 – 12/31/33 |
| 16 | 11/1/34 – 12/31/34 |
| 17 | 11/1/35 – 12/31/35 |
| 18 | 11/1/36 – 12/31/36 |
| 19 | 11/1/37 – 12/31/37 |
| 20 | 11/1/38 – 12/31/38 |

EXHIBIT D-2

SCHEDULE OF DISBURSEMENT PERIODS FROM NEW RETAIL IMPROVEMENTS
CID FUND

| <u>Disbursement Period</u> | <u>Dates of Period</u> |
|-----------------------------------|-------------------------------|
| 1 | 11/1/19 – 12/31/19 |
| 2 | 11/1/20 – 12/31/20 |
| 3 | 11/1/21 – 12/31/21 |
| 4 | 11/1/22 – 12/31/22 |
| 5 | 11/1/23 – 12/31/23 |
| 6 | 11/1/24 – 12/31/24 |
| 7 | 11/1/25 – 12/31/25 |
| 8 | 11/1/26 – 12/31/26 |
| 9 | 11/1/27 – 12/31/27 |
| 10 | 11/1/28 – 12/31/28 |
| 11 | 11/1/29 – 12/31/29 |
| 12 | 11/1/30 – 12/31/30 |
| 13 | 11/1/31 – 12/31/31 |
| 14 | 11/1/32 – 12/31/32 |
| 15 | 11/1/33 – 12/31/33 |
| 16 | 11/1/34 – 12/31/34 |
| 17 | 11/1/35 – 12/31/35 |
| 18 | 11/1/36 – 12/31/36 |
| 19 | 11/1/37 – 12/31/37 |
| 20 | 11/1/38 – 12/31/38 |
| 21 | 11/1/39 – 12/31/39 |
| 22 | 11/1/40 – 12/31/40 |

EXHIBIT D-3

**SCHEDULE OF DISBURSEMENT PERIODS FROM EXISTING RETAIL
IMPROVEMENTS CID FUND**

| <u>Disbursement Period</u> | <u>Dates of Period</u> |
|-----------------------------------|-------------------------------|
| 1 | 11/1/19 – 12/31/19 |
| 2 | 11/1/20 – 12/31/20 |
| 3 | 11/1/21 – 12/31/21 |
| 4 | 11/1/22 – 12/31/22 |
| 5 | 11/1/23 – 12/31/23 |
| 6 | 11/1/24 – 12/31/24 |
| 7 | 11/1/25 – 12/31/25 |
| 8 | 11/1/26 – 12/31/26 |
| 9 | 11/1/27 – 12/31/27 |
| 10 | 11/1/28 – 12/31/28 |
| 11 | 11/1/29 – 12/31/29 |
| 12 | 11/1/30 – 12/31/30 |
| 13 | 11/1/31 – 12/31/31 |
| 14 | 11/1/32 – 12/31/32 |
| 15 | 11/1/33 – 12/31/33 |
| 16 | 11/1/34 – 12/31/34 |
| 17 | 11/1/35 – 12/31/35 |
| 18 | 11/1/36 – 12/31/36 |
| 19 | 11/1/37 – 12/31/37 |
| 20 | 11/1/38 – 12/31/38 |
| 21 | 11/1/39 – 12/31/39 |
| 22 | 11/1/40 – 12/31/40 |

EXHIBIT E

GOALS AND OBJECTIVES

It is the shared goal of the City and the Master Developer to attract a diverse mixture of retail, restaurant, multi-family housing, office, entertainment, hotel, and other development uses complimentary to the downtown destination attractions in order to ensure that the downtown area remains vital and sustainable for the long term. The goal of the provisions of this Supplemental Agreement is to provide a structure for allocating economic development incentives for utilization in development of this mix of uses. Specifically, the City and the Master Developer state the following goals with regard to such mixture of uses and application of such incentives for the Project:

- **General Project Objectives (for all projects)**
 - o Attract businesses to the downtown.
 - o Attract capital investment that increases the future tax base.
 - o Attract capital investment that enhances the aesthetic quality of downtown.
 - o Attract developers with the requisite financial capacity to complete their proposed project.
 - o Attract developers/businesses with a track record of success, although first-time business owners/developers shall not be disadvantaged because of a lack of a significant track record.
 - o Attract developers who will be prepared to move forward with commencement of their projects within a reasonably expeditious timeframe.
 - o Introduce new economic activity and sales tax generation within the downtown area.
 - o Make downtown a more desirable place to live.
 - o Maintain a safe, secure area for residents, businesses and visitors.
 - o Increase property values downtown.
 - o Attract business which will increase jobs in the downtown area.

- **Retail/Restaurant Development Objectives**
 - o Attract businesses with strong market appeal, providing for a diverse mix of uses downtown.
 - o Attract businesses with a strong brand image, as well as retailers with a unique, local, or creative new brand or concept.
 - o Attract businesses offering high quality products and/or attract businesses with a sound business and marketing plan for new products.
 - o Incent improvements to existing local retailers and restaurants in order to improve sales of such businesses, and enhance the appearance of such businesses.